

Article - Estates and Trusts

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§3–208. IN EFFECT

**** IN EFFECT UNTIL OCTOBER 1, 2020 PER CHAPTER 435 OF 2019****

(a) (1) Upon the election of the surviving spouse to take the elective share of the property of the decedent, all property or other benefits which would have passed to the surviving spouse under the will shall be treated as if the surviving spouse had died before the execution of the will.

(2) The surviving spouse and a person claiming through the surviving spouse may not receive property under the will.

(b) (1) If there is an election to take an elective share, contribution to the payment of the elective share shall be prorated among all legatees.

(2) Instead of contributing an interest in specific property to the elective share, a legatee or legatees, but not the personal representative, may pay the surviving spouse in cash, or other property acceptable to the spouse, an amount equal to the fair market value of the surviving spouse's interest in specific property on the date or dates of distribution.

(3) (i) Except as provided under subparagraph (ii) of this paragraph, unless specifically provided in the will, a legatee is not entitled to sequestration or compensation from another legatee, or from another part of the estate of the decedent.

(ii) An interest renounced by the surviving spouse and not included in the share of the net estate received by the surviving spouse under this section may be subject to sequestration for the benefit of individuals who are the natural objects of the bounty of the decedent, in order to avoid a substantial distortion of the intended dispositions of the testator.

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